

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

JAN 28 2005

PATRICK FISHER
Clerk

DAVID SERNA,

Petitioner-Appellant,

v.

STATE OF OKLAHOMA,

Respondent-Appellee.

No.04-6102
N.D. of Okla.
(03-CV-1370-HE)

ORDER DENYING CERTIFICATE OF APPEALABILITY

Before **KELLY**, **HENRY**, and **TYMKOVICH**, Circuit Judges. **

Plaintiff-Appellant David Serna, an Oklahoma prisoner, brings this pro se 28 U.S.C. § 2254 petition alleging that he did not knowingly and voluntarily agree to his plea bargain. The district court denied the petition on March 25, 2004. For the reasons stated in our September 15, 2004 Order filed in the related case,

* This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders; nevertheless, an order may be cited under the terms and conditions of 10th Cir. R. 36.3.

** After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. *See* Fed. R. App. P. 34(a); 10th Cir. R. 34.1(G). The cause is therefore ordered submitted without oral argument.

04-6045, we deny this application for a Certificate of Appealability, and dismiss Serna's petition.

Entered for the Court

Timothy M. Tymkovich
Circuit Judge